

**§ 312.48 Dispute resolution.**

(a) *General.* The Food and Drug Administration is committed to resolving differences between sponsors and FDA reviewing divisions with respect to requirements for IND's as quickly and amicably as possible through the cooperative exchange of information and views.

(b) *Administrative and procedural issues.* When administrative or procedural disputes arise, the sponsor should first attempt to resolve the matter with the division in FDA's Center for Drug Evaluation and Research or Center for Biologics Evaluation and Research which is responsible for review of the IND, beginning with the consumer safety officer assigned to the application. If the dispute is not resolved, the sponsor may raise the matter with the person designated as ombudsman, whose function shall be to investigate what has happened and to facilitate a timely and equitable resolution. Appropriate issues to raise with the ombudsman include resolving difficulties in scheduling meetings and obtaining timely replies to inquiries. Further details on this procedure are contained in FDA Staff Manual Guide 4820.7 that is publicly available under FDA's public information regulations in part 20.

(c) *Scientific and medical disputes.* (1) When scientific or medical disputes arise during the drug investigation process, sponsors should discuss the matter directly with the responsible reviewing officials. If necessary, sponsors may request a meeting with the appropriate reviewing officials and management representatives in order to seek a resolution. Requests for such meetings shall be directed to the director of the division in FDA's Center for Drug Evaluation and Research or Center for Biologics Evaluation and Research which is responsible for review of the IND. FDA will make every attempt to grant requests for meetings that involve important issues and that can be scheduled at mutually convenient times.

(2) The "end-of-Phase 2" and "pre-NDA" meetings described in § 312.47(b) will also provide a timely forum for discussing and resolving scientific and medical issues on which the sponsor disagrees with the agency.

(3) In requesting a meeting designed to resolve a scientific or medical dispute, applicants may suggest that FDA seek the advice of outside experts, in which case FDA may, in its discretion, invite to the meeting one or more of its advisory committee members or other consultants, as designated by the agency. Applicants may rely on, and may bring to any meeting, their own consultants. For major scientific and medical policy issues not resolved by informal meetings, FDA may refer the matter to one of its standing advisory committees for its consideration and recommendations.

[52 FR 8831, Mar. 19, 1987, as amended at 55 FR 11580, Mar. 29, 1990]

**Subpart D—Responsibilities of Sponsors and Investigators****§ 312.50 General responsibilities of sponsors.**

Sponsors are responsible for selecting qualified investigators, providing them with the information they need to conduct an investigation properly, ensuring proper monitoring of the investigation(s), ensuring that the investigation(s) is conducted in accordance with the general investigational plan and protocols contained in the IND, maintaining an effective IND with respect to the investigations, and ensuring that FDA and all participating investigators are promptly informed of significant new adverse effects or risks with respect to the drug. Additional specific responsibilities of sponsors are described elsewhere in this part.

**§ 312.52 Transfer of obligations to a contract research organization.**

(a) A sponsor may transfer responsibility for any or all of the obligations set forth in this part to a contract research organization. Any such transfer shall be described in writing. If not all obligations are transferred, the writing is required to describe each of the obligations being assumed by the contract research organization. If all obligations are transferred, a general statement that all obligations have been transferred is acceptable. Any obligation not covered by the written description shall be deemed not to have been transferred.

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(b) A contract research organization that assumes any obligation of a sponsor shall comply with the specific regulations in this chapter applicable to this obligation and shall be subject to the same regulatory action as a sponsor for failure to comply with any obligation assumed under these regulations. Thus, all references to “sponsor” in this part apply to a contract research organization to the extent that it assumes one or more obligations of the sponsor.

### § 312.53 Selecting investigators and monitors.

(a) *Selecting investigators.* A sponsor shall select only investigators qualified by training and experience as appropriate experts to investigate the drug.

(b) *Control of drug.* A sponsor shall ship investigational new drugs only to investigators participating in the investigation.

(c) *Obtaining information from the investigator.* Before permitting an investigator to begin participation in an investigation, the sponsor shall obtain the following:

(1) A signed investigator statement (Form FDA–1572) containing:

(i) The name and address of the investigator;

(ii) The name and code number, if any, of the protocol(s) in the IND identifying the study(ies) to be conducted by the investigator;

(iii) The name and address of any medical school, hospital, or other research facility where the clinical investigation(s) will be conducted;

(iv) The name and address of any clinical laboratory facilities to be used in the study;

(v) The name and address of the IRB that is responsible for review and approval of the study(ies);

(vi) A commitment by the investigator that he or she:

(a) Will conduct the study(ies) in accordance with the relevant, current protocol(s) and will only make changes in a protocol after notifying the sponsor, except when necessary to protect the safety, the rights, or welfare of subjects;

(b) Will comply with all requirements regarding the obligations of clinical in-

vestigators and all other pertinent requirements in this part;

(c) Will personally conduct or supervise the described investigation(s);

(d) Will inform any potential subjects that the drugs are being used for investigational purposes and will ensure that the requirements relating to obtaining informed consent (21 CFR part 50) and institutional review board review and approval (21 CFR part 56) are met;

(e) Will report to the sponsor adverse experiences that occur in the course of the investigation(s) in accordance with § 312.64;

(f) Has read and understands the information in the investigator’s brochure, including the potential risks and side effects of the drug; and

(g) Will ensure that all associates, colleagues, and employees assisting in the conduct of the study(ies) are informed about their obligations in meeting the above commitments.

(vii) A commitment by the investigator that, for an investigation subject to an institutional review requirement under part 56, an IRB that complies with the requirements of that part will be responsible for the initial and continuing review and approval of the clinical investigation and that the investigator will promptly report to the IRB all changes in the research activity and all unanticipated problems involving risks to human subjects or others, and will not make any changes in the research without IRB approval, except where necessary to eliminate apparent immediate hazards to the human subjects.

(viii) A list of the names of the sub-investigators (e.g., research fellows, residents) who will be assisting the investigator in the conduct of the investigation(s).

(2) *Curriculum vitae.* A curriculum vitae or other statement of qualifications of the investigator showing the education, training, and experience that qualifies the investigator as an expert in the clinical investigation of the drug for the use under investigation.

(3) *Clinical protocol.* (i) For Phase I investigations, a general outline of the planned investigation including the estimated duration of the study and the